

# SENATE RECORD VOTE ANALYSIS

106th Congress  
1st Session

Vote No. 215

July 21, 1999, 1:18 a.m.  
Page S-8921 Temp. Record

## INTELLIGENCE AUTHORIZATION/DoE Control of the ANS

**SUBJECT:** Intelligence Authorization Act for fiscal year 2000 . . . S. 1009. Levin amendment No. 1261 to the Kyl/Domenici/Murkowski amendment No. 1258.

### ACTION: AMENDMENT REJECTED, 44-54

**SYNOPSIS:** As reported, S. 1009, the Intelligence Authorization Act for fiscal year 2000, will authorize appropriations and personnel ceilings for fiscal year (FY) 2000 United States intelligence activities and programs. The bill includes provisions regarding security at Energy Department laboratories (recent reports show that China has been able to steal virtually all of the United States' nuclear weapon and missile technology secrets from those laboratories).

The Kyl/Domenici/Murkowski amendment would create the Agency for Nuclear Stewardship (ANS) as a semi-autonomous agency within the Department of Energy (DoE). The amendment would closely track the Kyl/Domenici/Murkowski amendment that was offered to the Defense Authorization Bill earlier this year (that amendment was withdrawn due to a Democratic filibuster). Modifications would be made to the amendment to make it conform to a similar reorganization proposal (as contained in the Rudman Report) by the President's Foreign Intelligence Advisory Board (PFIAB) that was appointed to examine this issue. The Secretary of Energy would be responsible for all policies of the ANS. The ANS Director would be an undersecretary of the DoE. The Administrator would be directly accountable to the Secretary of Energy. The Secretary could not delegate to any DoE official the duty to supervise or direct the ANS Director. The ANS Director would have direct authority and responsibility for DOE national security functions and all activities at the national laboratories and nuclear weapons facilities. The ANS Director would have direct authority and responsibility for all executive and administrative functions of the ANS. Three Deputy Directors (for defense programs, nonproliferation and fissile disposition, and naval reactors) would be appointed. The Deputy Director for Naval Reactors would have direct access to the Secretary and other senior DoE officials. The Directors of the 3 national laboratories and each nuclear weapons facility would report to the Deputy Director for Defense Programs. Three offices would be created within the ANS (intelligence, counterintelligence, and security) the chiefs of which would have direct access to the Secretary. The Administrator

(See other side)

YEAS (44)		NAYS (54)		NOT VOTING (2)	
Republicans (0 or 0%)	Democrats (44 or 100%)	Republicans (54 or 100%)	Democrats (0 or 0%)	Republicans (1)	Democrats (1)
Akaka	Johnson	Abraham	Hutchinson	Craig <sup>-2</sup>	Kennedy <sup>-2</sup>
Baucus	Kerrey	Allard	Hutchison		
Bayh	Kerry	Ashcroft	Inhofe		
Biden	Kohl	Bennett	Jeffords		
Bingaman	Landrieu	Bond	Kyl		
Boxer	Lautenberg	Brownback	Lott		
Breaux	Leahy	Bunning	Lugar		
Bryan	Levin	Burns	Mack		
Byrd	Lieberman	Campbell	McCain		
Cleland	Lincoln	Chafee	McConnell		
Conrad	Mikulski	Cochran	Murkowski		
Daschle	Moynihan	Collins	Nickles		
Dodd	Murray	Coverdell	Roberts		
Dorgan	Reed	Crapo	Roth		
Durbin	Reid	DeWine	Santorum		
Edwards	Robb	Domenici	Sessions		
Feingold	Rockefeller	Enzi	Shelby		
Feinstein	Sarbanes	Fitzgerald	Smith, Bob (I)		
Graham	Schumer	Frist	Smith, Gordon		
Harkin	Torricelli	Gorton	Snowe		
Hollings	Wellstone	Gramm	Specter		
Inouye	Wyden	Grams	Stevens		
		Grassley	Thomas		
		Gregg	Thompson		
		Hagel	Thurmond		
		Hatch	Voinovich		
		Helms	Warner		

#### EXPLANATION OF ABSENCE:

1—Official Business  
2—Necessarily Absent  
3—Illness  
4—Other

#### SYMBOLS:

AY—Announced Yea  
AN—Announced Nay  
PY—Paired Yea  
PN—Paired Nay

would be required to fully inform the President and Congress of any threat to or loss of national security information. The Administrator also would be required to report annually to Congress on the adequacy of DoE procedures and policies for protecting national security information and on whether each DoE laboratory was in full compliance with all DoE security requirements. Each laboratory director would be required to certify, annually and in writing, whether the laboratory was in full compliance with all departmental national security information protection requirements. No one in the Administration would be allowed to interfere with any of the reporting requirements of this amendment.

**The Levin amendment** would add the following: "The Secretary shall be responsible for developing and promulgating all Departmental-wide security, counterintelligence, and intelligence policies, and may use his immediate staff to assist him in developing and promulgating such policies. The Director of the Agency for Nuclear Stewardship is responsible for implementation of the Secretary's security, counterintelligence, and intelligence policies within the new agency. The Director of the Agency may establish agency-specific policies so long as they are fully consistent with the departmental policies established by the Secretary."

**Those favoring** the amendment contended:

During the present debate our colleagues have emphasized that the underlying Kyl/Domenici/Murkowski amendment closely follows the Rudman Report recommendations for reorganizing the DoE. However, their amendment leaves out two very important parts of those recommendations, which are that the new, semiautonomous agency should still be subject to DoE-wide policies and regulations and that the Secretary of Energy should be allowed to use his immediate staff to assist him in developing and promulgating such policies and regulations. The Levin amendment would add those recommendations. During the debate on this amendment, it has become clear that opponents of this amendment do not disagree with its intended effect; they only believe that it would fail to have that effect. If this amendment is rejected, our hope is that it will be possible to reach agreement on compromise language that all Senators believe would have the desired results.

**Those opposing** the amendment contended:

The Levin amendment would address a nonexistent problem and, in the process, would recreate many of the problems that we are trying to fix by reorganizing the DoE. The DoE has terrible problems with security because there are no clear lines of authority. So many people have so much vague and overlapping authority that no one is really in charge or is capable of exercising any control over security. The underlying amendment would sweep away the layers of bureaucracy by putting all of our nuclear weapons activities into a single, semiautonomous agency that would have very clear lines of authority. Under the amendment, the ultimate authority would be the Secretary, who would be able to approve, disapprove, or implement particular policies. The Levin amendment, in an unnecessary effort to preserve the Secretary's authority (that authority would already be amply protected), would begin to blur those lines before they were even enacted. The amendment would require the ANS Director to implement the Secretary's security, counterintelligence, and intelligence policies, which would be developed by the Secretary's staff for all DoE agencies, and it would only allow the ANS Director to implement agency-specific policies if they were "fully consistent" with department-wide policies. These restrictions would nearly obliterate any independent authority of the ANS Director, making him an automaton who would have to follow directives made by any shifting number of assistants of the Secretary. Under this proposal, for instance, one of the Secretary's assistants could decide that, Department-wide, polygraph tests could not be used. For most Energy Department agencies, that decision would probably make sense, because security is not a concern for them. If that assistant made that decision and promulgated it, the ANS Director would have to implement it, no questions asked, and could not come up with any policy that conflicted with it. Under the Levin amendment, a host of assistants to the Secretary could come up with a large number of overlapping and even conflicting policies and regulations, which would destroy accountability and weaken security.

Despite our objection to the effect of the Levin amendment, we agree with its intent. We believe that the underlying bill preserves the Secretary's authority; the Levin amendment's supporters believe that additional clarifying language is needed. Our expectation is that it will be possible to reach an agreement. Any compromise language that is adopted should make clear that the Secretary's immediate staff may make Department-wide decisions on security. Also, it should make clear that the ANS may make its own agency-specific decisions on security that may conflict with Department-wide decisions unless the Secretary declares otherwise. We will vote against this amendment, but we pledge to work with our colleagues to come up with additional clarifying language that is acceptable to them.